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Committee of Experts on International Cooperation in Tax Matters
Sixteenth session
New York, 14–17 May 2018

Provisional agenda and organization of work

Provisional agenda

1. Opening of the session by the Co-Chairs.
2. Adoption of the agenda and organization of work.
3. Discussion of substantive issues related to international cooperation in tax matters:
   - (a) Procedural issues for the Committee;
   - (b) Report of the Subcommittee on Updating the United Nations Model Double Taxation Convention between Developed and Developing Countries;
   - (c) Other issues:
     - (i) Update of the United Nations Practical Manual on Transfer Pricing for Developing Countries;
     - (ii) Update of the handbook on extractive industries taxation issues for developing countries;
     - (iii) Update of the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries;
     - (iv) Treatment of collective investment vehicles;
     - (v) Dispute avoidance and resolution;
     - (vi) Capacity-building;
     - (vii) Environmental tax issues;
     - (viii) Tax consequences of the digitalized economy — issues of relevance for developing countries;
     - (ix) Taxation of development projects;
     - (x) Other matters for consideration.
4. Provisional agenda for the seventeenth session of the Committee.
5. Adoption of the report of the Committee on its sixteenth session

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Provisional organization of work

Date	*Item*	
Monday, 14 May		
9–10 a.m.		Registration of participants
10–10.30 a.m.	1	Opening of the session by the Co-Chairs
	2	Adoption of the agenda and organization of work
10.30–11 a.m.	3 (a)	Procedural issues for the Committee
11–11.15 a.m.		Coffee break
11.15 a.m.–1 p.m.	3 (a)	Procedural issues for the Committee (*continued*)
1–3 p.m.		Lunch break
3–5 p.m.	3 (c) (v)	Dispute avoidance and resolution
5–5.15 p.m.		Coffee break
5.15–6 p.m.	3 (b)	Report of the Subcommittee on Updating the United Nations Model Double Taxation Convention between Developed and Developing Countries
Tuesday, 15 May		
10–10.45 a.m.	3 (b)	Report of the Subcommittee on Updating the United Nations Model Double Taxation Convention between Developed and Developing Countries (*continued*)
10.45 a.m.–12 p.m.	3 (c) (i)	Update of the United Nations Practical Manual on Transfer Pricing for Developing Countries
12–12.15 p.m.		Coffee break
12.15–1 p.m.	3 (c) (ix)	Taxation of development projects
1–3 p.m.		Lunch break
3–4.30 p.m.	3 (c) (iii)	Update of the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries
4.30–4.45 p.m.		Coffee break
4.45–6 p.m.	3 (c) (iv)	Treatment of collective investment vehicles
Wednesday, 16 May		
10 a.m.–12 p.m.	3 (c) (ii)	Update of the handbook on extractive industries taxation issues for developing countries
12–12.15 p.m.		Coffee break
12.15–1 p.m.	3 (c) (vi)	Capacity-building
1–3 p.m.		Lunch break

Date	*Item*	
3–4 p.m.		Capacity-building (*continued*)
4–4.15 p.m.	3 (c) (vi)	Coffee break
4.15–6 p.m.	3 (c) (vii)	Environmental tax issues
Thursday, 17 May		
10–11.15 a.m.	3 (c) (viii)	Tax consequences of the digitalized economy — issues of relevance for developing countries (Part 1: Tax policy issues)
11.15–11.30 a.m.		Coffee break
11.30 a.m.–1 p.m.	3 (c) (viii)	Tax consequences of the digitalized economy — issues of relevance for developing countries (Part 2: Digitalization of tax administration)
1–3 p.m.		Lunch break
3–4 p.m.	3 (c) (x)	Other matters for consideration
4–4.15 p.m.		Coffee break
4.15–5.30 p.m.	4	Provisional agenda for the seventeenth session of the Committee
5.30–5.50 p.m.	5	Adoption of the report of the Committee on its sixteenth session
5.50–6 p.m.		Closing of the session

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Committee of Experts on International Cooperation in Tax Matters
Sixteenth session
New York, 14–17 May 2018
Item 3 (c) (vi) of the provisional agenda*
Discussion of substantive issues related to international cooperation in tax matters: other issues: capacity-building

First Global Conference of the Platform for Collaboration on Tax: Taxation and the Sustainable Development Goals

Note by the Secretariat

1. In its resolution 2017/2, the Economic and Social Council recognized the progress made by the Financing for Development Office in developing, within its mandate, a capacity development programme in international tax cooperation aimed at strengthening the capacity of the ministries of finance and the national tax authorities in developing countries to develop more effective and efficient tax systems, which support the desired levels of public and private investment, and to combat tax evasion, and requested the Office, in partnership with other stakeholders, to continue its work in this area and to further develop its activities, including relevant practical tools.

2. In line with this mandate, the Financing for Development Office has been participating in the work of the Platform for Collaboration on Tax, a joint initiative of the International Monetary Fund (IMF), the Organization for Economic Cooperation and Development (OECD), the United Nations and the World Bank Group, established in April 2016 to intensify cooperation in tax matters and increase support for capacity-building on tax matters in developing countries.

3. On 14–16 February 2018, the Platform convened its First Global Conference, on the theme "Taxation and the Sustainable Development Goals", at United Nations Headquarters. The Conference was successful in achieving its main objective: to take forward the global dialogue on the role of taxation in mobilizing domestic revenue to finance the Sustainable Development Goals and to provide an inclusive multi-stakeholder forum for the exchange of country experiences on challenges and opportunities in using tax systems in support of sustainable development.

* E/C.18/2018/2.

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4. As a result, the Conference made an important contribution to the global efforts towards the implementation of the 2030 Agenda for Sustainable Development and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development.

5. According to registration records, the Conference was attended by more than 500 participants from 119 developed and developing countries, including 22 ministers and vice-ministers of finance, 36 commissioners of national tax authorities, 10 members of the Committee of Experts on International Cooperation in Tax Matters, 25 academics, 80 civil society representatives, 31 private sector representatives and over 100 officials from international and regional organizations.

6. A wide range of topics was covered in the eight plenary and six breakout sessions of the Conference, supplemented by 13 side events. Plenary discussions focused on how effective tax policies and administration could contribute to supporting sustainable economic growth, fiscal sustainability, investment and trade, and addressing social concerns, such as poverty, income inequality, health and human development, as well as on tax system reforms, tax capacity development and international tax cooperation. Dedicated sessions were held on the role of taxation in achieving gender equality, curbing illicit financial flows, the taxation of extractive industries, and how taxation can improve governance outcomes and promote equity. Side events highlighted progress made in implementing important international tax cooperation frameworks, such as Tax Inspectors Without Borders, an initiative of OECD and the United Nations Development Programme, the Addis Tax Initiative, led by the European Union, and the project on base erosion and profit shifting of OECD and the Group of 20.

7. As an outcome, the Platform partners issued a closing statement (see annex), which is a strategic, forward-looking and action-oriented document identifying 14 action points that, subject to availability of resources, the Platform partners agreed to pursue.

8. According to the statement, the Platform will scale up its work, including on treaties, to support developing countries in addressing tax transparency and tax base erosion and profit shifting. To this end, the Platform will continue its work on toolkits to help developing countries to address challenges in international taxation and will respond to additional concerns raised by countries with guidance and recommendations.

9. The Platform will analyse and report on the spillovers on and opportunities from changes in the international tax environment for developing countries. The Platform partners will further increase their coordination and cooperation to provide coherent and consistent international tax policy advice. They will support the enhanced participation of developing countries in international tax policy discussions and institutions and facilitate dynamic interaction between standard-setting and capacity development.

10. An important task of the Platform will be to support countries in reforming their tax systems through country-led medium-term revenue strategies — comprehensive reform plans reflecting each country's circumstances and institutional capacity. Moreover, the Platform will launch a multi-year programme on tax and the Sustainable Development Goals, which will include components on health, education, gender, inequality, the environment and infrastructure, with a view to addressing a more comprehensive set of issues that are critical to the attainment of the Sustainable Development Goals.

11. Building on the success of the Conference, the Platform will continue to promote partnerships and stakeholder engagement. It will establish a regular, structured, inclusive and broad-based dialogue with the full range of stakeholders, including governments, regional tax organizations, donor agencies, civil society and the business sector.

Annex

First Global Conference of the Platform for Collaboration on Tax: Taxation and the Sustainable Development Goals

Statement by the Platform partners at the closing of the Conference

The Platform and its role

The Sustainable Development Goals set ambitious targets for all countries, to end all forms of poverty, fight inequalities and tackle climate change, while ensuring that no one is left behind. Achieving these goals will require enormous financial resources. The Addis Ababa Action Agenda recognizes that much of the increased public financing required to reach these goals will have to be generated domestically. Taxation has a key role to play in financing the Sustainable Development Goals. At the same time, an era of unprecedented international cooperation on tax is under way, with the implementation of the automatic exchange of information and the base erosion and profit shifting project and the strengthening of the Committee of Experts on International Cooperation in Tax Matters, all creating new opportunities for the enhanced participation of developing countries in international tax policy discussions and institutions, but also new challenges to fully realizing the benefits of international cooperation on tax.

It is in this context that the Platform for Collaboration on Tax was formed. The Platform partners, the International Monetary Fund (IMF), the Organization for Economic Cooperation and Development (OECD), the United Nations and the World Bank, have each worked for many decades to support their member countries in effectively mobilizing tax revenues — from the most economically advanced to the poorest. In this new era of increased international cooperation, however, there are opportunities for deeper collaborative work through the Platform. The partner organizations bring together their own mandates and expertise, and their convening power to engage in and stimulate research, and together through the Platform they lead the debate and action on the broad role of taxation in achieving the Sustainable Development Goals.

Subject to resource availability, the Platform intends to undertake or continue work in a range of areas, including:

1. *Strengthening international tax cooperation*

As the international tax environment is changing rapidly, there is a high demand for action by the Platform, which is well placed to facilitate feedback between standard-setting, capacity-building and technical assistance in the sphere of international taxation.

To respond to this demand, the partners will further increase coordination and cooperation at the global and country levels. Guidance for developing countries (for example, through the various toolkits that the Platform has produced, and continues to work on, to help developing countries in high priority areas of international taxation) will provide a basis for some of this work. The Platform will also support developing countries in analysing and articulating their views on important international tax issues, which will feed back into international forums and standard-setting processes.

2. *Building institutions through medium-term revenue strategies*

In their 2016 report, entitled "Enhancing the effectiveness of external support in building tax capacity in developing countries", the Platform partners advocated medium-term revenue strategies, a new approach to support countries in reforming their tax systems. These are intended to facilitate a country-driven process to develop multi-year, holistic and realistic plans for revenue policy and legal and administrative reforms consistent with the countries' development goals, and to enhance the ability of their tax systems to achieve strong, robust growth and wider social objectives. They are envisaged as part of the country's institution-building process, as broad stakeholder engagement in the development of medium-term revenue strategies can help shape the relationship between citizens and their governments. This approach is in the initial stages of implementation, with the Platform playing a significant role in a first wave of countries in 2018. Aiming to reach the full potential of this approach, the partners will foster an inclusive process of collaboration and information-sharing, as well as encourage stronger leadership from the countries' governments and broad societal engagement.

3. *Promoting partnerships and stakeholder engagement*

Sustainable Development Goal 17 emphasizes the importance of partnerships and international support in realizing the Sustainable Development Goals, including in relation to tax. The Platform is just one form of partnership that is needed to make progress on this Goal at the global and country level. As this conference has demonstrated, achieving the Sustainable Development Goals requires action from all stakeholders. The Platform's success depends on its ability to foster wider relationships, including by convening governments, regional tax organizations, civil society and the business sector.

This conference is the beginning of a process of regular, structured dialogue with the full range of stakeholders.

The box below includes a list of immediate and concrete actions related to the above three areas, which, additional resources permitting, the Platform intends to undertake or continue:

Platform actions to take the tax agenda forward

- On a regular basis, working with others, including the Addis Tax Initiative, we will help to give a comprehensive picture of the total effort of international, regional and bilateral partners in supporting developing countries on tax matters.
- We will integrate and aim for the highest possible standards of transparency in the provision of information about our capacity development activities in developing countries through the Platform website.
- On international tax we will scale up our joint work to support developing countries to address tax transparency and base erosion and profit shifting, including on treaties.
- Working together with other stakeholders, we will seek to provide coherent and consistent international tax policy advice.
- We will complete the Platform toolkits to help countries address challenges in international taxation and launch an expanded outreach programme to support the development and use of the toolkits. We will respond to additional concerns raised by countries with analytical work, recommendations and guidance.
- We will provide, in mid-2018, an update to the Group of 20 on tax certainty and developing countries.
- We will analyse and report on the spillovers on and opportunities from changes in the international tax environment for developing countries.
- We will work together to support the development of country-led medium-term revenue strategies, including through the involvement of bilateral partners, and report on outcomes. We will align our support according to the plans set out by governments.
- We will help developing countries access knowledge, experience and good practices in tax administration, starting with the use of technology, working with the Forum on Tax Administration, regional tax organizations and other partners.
- We will support the participation of developing countries in tax policy discussions in international forums.
- We will launch a multi-year programme on tax and the Sustainable Development Goals, which will include components on taxation and health, education, gender, inequality, the environment and infrastructure.
- We will establish a regular dialogue between the Platform and stakeholders, most importantly, the governments of developing countries.
- We will review current practice, and provide guidance and recommendations, on the tax treatment of goods and services funded through official development assistance.
- To help deliver on this agenda we will seek to secure donor funding for the expanded work programme, supported by a strengthened Platform secretariat.

Taxation and the Sustainable Development Goals

As this conference has shown, tax structures affect society and the economy in many ways beyond a narrow financing focus: the impact of inequality, in its many dimensions, on investment and growth; the empowerment of women; the sustainability of the environment; the extraction of natural resources; and many other concerns central to the achievement of the Sustainable Development Goals. While the Platform partners already work on all these topics, through analysis, standard-setting and technical assistance to member countries, there is scope for further work.

Delivering on the Platform's agenda

This conference has provided the opportunity for stakeholders to suggest other topics on which the Platform could work and other ways in which it could foster cooperation. Taking these suggestions into account, the Platform will produce a forward agenda of the issues raised by this conference, and identify areas where further work is possible, either by the Platform or by Platform partners individually or in collaboration with others.

These proposed actions could make a significant contribution that would reflect the important role of taxation in achieving the Sustainable Development Goals. These actions can be delivered only if resources are made available. We gratefully acknowledge the contributions from the Governments of Luxembourg, Switzerland and the United Kingdom of Great Britain and Northern Ireland, and the commitment from the Government of Japan. Taking the Platform to the next level of ambition will require a new injection of resources, not least to increase the capacity of its secretariat.

The Platform looks forward to working with all stakeholders to deliver on this agenda, through continued support for country-led medium-term revenue strategies, information-sharing, on-the-ground cooperation, enhanced dialogue with stakeholders, further focus and guidance on international tax challenges and initiatives that will ensure the greater participation of developing countries in international tax policy discussions and institutions.

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Item 3 (b) of the provisional agenda*
Discussion of substantive issues related to international cooperation in tax matters: report of the Subcommittee on Updating the United Nations Model Double Taxation Convention between Developed and Developing Countries

Progress on the 2017 update of the United Nations Model Double Taxation Convention between Developed and Developing Countries

Note by the Secretariat

1. The Committee of Experts on International Cooperation in Tax Matters made substantial progress in the area of international taxation by developing an updated version of the United Nations Model Double Taxation Convention between Developed and Developing Countries, which was concluded in substance in 2017, although some non-substantive editing remains to be done.

2. At its fourteenth session, held in New York from 3 to 6 April 2017, the Committee requested the Secretariat to work until October on the revision of the Model Convention with a small group of members, acting in their personal capacities (see E/2017/45-E/C.18/2017/3, para. 20).

3. One of the highlights of the 2017 update of the Model Convention is the introduction of article 12A on fees for technical services, an article not found in the Model Tax Convention on Income and on Capital of the Organization for Economic Cooperation and Development (OECD). Its introduction responds to a treaty practice that is increasingly applied in developing countries and increases the prominence of source-based taxation in the United Nations Model Convention, an issue that is of special but not unique relevance to developing countries. The 2017 update also incorporates some of the language of the Base Erosion and Profit Shifting Project of OECD and the Group of 20.

* E/C.18/2018/2.

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4. In the 2017 update, the Committee made several changes to the United Nations Model Convention related to base erosion and profit shifting to prevent taxpayers from using the provisions of bilateral tax conventions improperly to obtain treaty benefits. First, the title of the Convention was amended to refer expressly to "the prevention of tax avoidance and evasion". Second, a new preamble was added, clarifying that tax conventions are not intended to create opportunities for tax avoidance or evasion, including tax avoidance through treaty-shopping arrangements. Third, a new general anti-abuse rule was included in article 29, paragraph 9, which, together with the specific anti-abuse rules included in tax treaties, is intended to prevent transactions and arrangements from being granted treaty benefits in circumstances where granting such benefits would be contrary to the object and purpose of the Model Convention. These additions will make the provisions of the Model Convention more effective in preventing treaty abuse.

5. The other main changes to the United Nations Model Convention compared with the previous version, published in 2012, are as follows:

(a) Article 1 was replaced to include a fiscally transparent entity clause and a saving clause that clarifies that residence taxation is generally preserved under tax treaties;

(b) Article 4 was modified to include a new tie-breaker rule for determining the treaty residence of dual-resident persons other than individuals;

(c) Article 5 was modified to prevent the avoidance of permanent establishment status;

(d) Article 10 was modified to change the circumstances in which a lower rate applies for dividends on direct ownership of shares above a 25 per cent threshold;

(e) Article 13, paragraph 4, was replaced to modify the scope of the land-rich company rule;

(f) Article 13, paragraph 5, was modified for consistency with article 13, paragraph 4;

(g) Articles 23 A and 23 B were changed to clarify that there is no obligation to provide relief for tax imposed solely on a residence basis.

6. The commentaries on the articles were updated to reflect these changes.

7. The 2017 update of the United Nations Model Convention is undergoing final editing by the Secretariat and the small group of persons asked by the Committee to contribute to that work. While that work has proved more difficult than expected and has taken longer than originally intended, it is expected to conclude in time to allow the Model Convention to be published electronically in May 2018, on the occasion of the sixteenth session of the Committee, with production in book form to follow thereafter.

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Item 3 (c) (ii) of the provisional agenda*
Discussion of substantive issues related to international cooperation in tax matters: other issues

Update of the handbook on extractive industries taxation issues for developing countries

Note by the Secretariat

1. The Committee of Experts on International Cooperation in Tax Matters developed, and finalized in substance in 2017, through a subcommittee dedicated to the issue, a handbook on selected issues in the taxation of the extractive industries for developing countries, designed to highlight specific areas of interest for developing countries and give guidance on some issues that they could usefully bear in mind when negotiating new contracts for exploration for and exploitation of natural and mineral resources within their jurisdiction.

2. The handbook covers the following topics:

(a) Overview of extractive industries taxation issues;

(b) Fiscal take;

(c) Permanent establishment issues for the extractive industries;

(d) Indirect transfer of assets;

(e) Tax aspects of negotiation and renegotiation of contracts;

(f) Transfer pricing issues in the extractive industries;

(g) Value-added tax in the extractive industries;

(h) Tax treatment of decommissioning for the extractive industries.

3. The handbook is undergoing final editing by the Secretariat and its authors. While that work has proved more difficult than expected and has taken longer than originally intended, it is expected to conclude in time to allow the handbook to be published electronically in May 2018, on the occasion of the sixteenth session of the Committee, with production in book form to follow thereafter.

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Item 3 (c) (iv) of the provisional agenda*
Discussion of substantive issues related to international cooperation in tax matters: treatment of collective investment vehicles

Previous consideration by the Committee of Experts on International Cooperation in Tax Matters of the treatment of collective investment vehicles

Note by the Secretariat

1. The matter of the tax treatment of collective investment vehicles arose in particular in the context of developing article 29 (Entitlement to benefits) as part of the 2017 update of the United Nations Model Double Taxation Convention between Developed and Developing Countries.

2. The work was led by a member of the Committee, Henry Louie, who prepared a conference room paper for the Committee's fourteenth session, in which he addressed some of the policy and drafting issues related to collective investment vehicles and noted the lack of prior consideration thereof by the Committee. At the fourteenth session, Mr. Louie explained the proposed new article 29 and emphasized that the Committee would have to decide whether it would like to include a rule to address collective investment vehicles in article 29 (2) (g). The Committee recommended that the issue should be discussed at the next session and agreed to temporarily include language in article 29 (2) (g) to the effect that countries could address the taxation of collective investment vehicles in their tax treaties. The term "collective investment vehicle" was consequently removed from paragraph 7 of the commentary on article 29 but may be reincluded following relevant recommendations by the Committee (see E/2017/45-E/C.18/2017/3, paras. 65–67).

3. At the fifteenth session, a member of the Committee, Christoph Schelling, observed that the tax treatment of collective investment vehicles in domestic law and tax treaties raised a number of issues and was an important question for both developed and developing countries. As a first step, Mr. Schelling proposed and the Committee agreed to the preparation of a paper outlining the issue, which would be discussed at the sixteenth session of the Committee (see E/2018/45-E/C.18/2018/1, paras. 56–58).

* E/C.18/2018/2.

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